

## U.S. Department of Justice



United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

June 25, 2025

**VIA ECF**

The Honorable Sarah L. Cave  
United States Magistrate Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: Nkansah v. United States of America, 18-cv-10230 (KMW) (SLC)

Dear Judge Cave:

This Office represents the Government in the above-referenced action filed by Felix Nkansah (“Plaintiff”) under the Federal Tort Claims Act, 28 U.S.C. § 1346(b), *et seq.* The Government’s opening brief to exclude portions of Plaintiff’s proposed expert testimony under Federal Rule of Evidence 702 and Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 597 (1993), as well as Plaintiff’s opening summary judgment brief, are due by Friday June 27, 2025, with oppositions due by July 28, 2025, and replies due by August 15, 2025. See Order, dated May 27, 2025 (ECF No. 198). I write on behalf of both parties to respectfully request a two-week extension of the June 27 deadline to July 11, a concomitant extension of the opposition deadline to August 11, and an extension of the reply deadline to September 8, due to the present unavailability of one of the Government’s declarants, Plaintiff’s competing work demands and summer schedule, and to maintain a simultaneous briefing schedule.

The Government’s expert forensic psychologist, Dr. Barry Rosenfeld, will be submitting a declaration in support of the Government’s Daubert motion. However, Dr. Rosenfeld is in Europe this entire week to attend a work conference and will not be able to review and sign his declaration until next week. In addition, the Government’s counsel needs to discuss with Dr. Rosenfeld certain excerpts from the deposition of Dr. Richard Lucas, Plaintiff’s treating and expert psychologist, which the Government marked “Highly Confidential” and “Attorneys’ Eyes Only” subject to the Privacy Act and Protective Order Addendum so-ordered on March 3, 2023. See ECF No. 109. These sections of Dr. Lucas’s deposition were so designated because they discuss highly confidential psychological test data from Dr. Rosenfeld’s examination of Plaintiff, which need to be protected for test security and to avoid damaging the integrity of any future testing of Plaintiff or others. Counsel for the Government needs to discuss with Dr. Rosenfeld which portions, if any, of these confidential materials can be filed publicly, whether in redacted or unredacted form, and whether certain portions need to be filed under seal. The Government will not be able to have these discussions with Dr. Rosenfeld until after he returns from his work travels. Furthermore, over the next two weeks Plaintiff’s counsel has competing work obligations necessitating additional time for the submission of Plaintiff’s opening summary judgment brief. Accordingly, the parties jointly and respectfully request a two-week extension of the Daubert and summary judgment opening briefs from June 27 to July 11, 2025, and a concomitant extension of the simultaneous opposition deadline from July 28 to August 11, 2025.

Plaintiff also respectfully requests an extension of the simultaneous reply deadline from August 15 to September 8, 2025, because Plaintiff's counsel will be away during the second half of August due to a previously planned summer vacation. The Government consents to this extension.

In sum, the parties respectfully request that the Court extend the Daubert and summary judgment simultaneous briefing schedule as follows: opening briefs to be filed by July 11, 2025; oppositions to be filed by August 11, 2025; and replies to be filed by September 8, 2025. This is the Government's first request for an extension of the briefing schedule. Plaintiff filed one prior request for a three-week extension, which was granted. See Ltr., dated May 23, 2025 (ECF No. 187); Order granting extension, dated May 27, 2025 (ECF No. 198). We thank the Court for its consideration of this request.

Respectfully,

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Cc: Rehan Nazrali, Esq., *Counsel for Plaintiff* (by ECF)